REGULAR
COUNCIL MEETING
March 21, 1988

The regular meeting of the Elkton Town Council was held March 21, 1988 at 8:00 P.M. in the council chambers with the Mayor Charles E. Dean presiding. The following council members were present: R. E. Davis, B. B. Holt, H. W. Leap, H. A. Leet, L. C. Life and R. L. Snow. Dale Davenport, Attorney, Norma Leap, Clerk, Gerald Monger, Superintendent and Warren Pence, Chief of Police were also present.

Councilwoman Life read part of a letter she had sent to Miss Allison Lawson congratulating her on taking first place in the 1988 Young Authors Contest at the Elkton Elementary School and inviting her to present her contest material at the council meeting on March 21, 1988. Miss Lawson and her family were present. Copies of the material were distributed to council and Miss Lawson read the "History of Elkton" which she had written.

Councilwoman Life thanked Miss Lawson and wished her well in the district and state competition.

Councilman H. A. Leet moved, seconded by Councilman B. B. Holt and carried to approve the minutes of the regular meeting February 22, 1988 as presented.

Mr. I. J. Conley was present to ask permission to connect his trailer park east of Elkton to town water and sewer. He stated they didn't necessarily need water at this time as they have plenty of water at present but possibly in the future they might need the water. The trailer park is approximately 1.3 mile from the town's sewer line. Mr. Conley stated he would petition the county to assist with this and felt it would be an asset to the county to have growth in this area.

Mr. Conley was asked to present a written request. This will be given to the Water and Sewer Committee for their consideration.

Councilman R. L. Snow moved, seconded by Councilman R. E. Davis and carried to approve the Finance Report for February.

Mr. Monger reported that he has just about completed the figures on the cost of the water line across the river and will be sending a bill to the county.

Councilman B. B. Holt moved, seconded by Councilman H. W. Leap to approve on Second Reading the donation of $2,400.00 to the Elkton Fire Company and Rescue Squad for gasoline. The vote was recorded as follows:

Davis	-	yea	Leet	-	yea
Holt	-	yea	Life	-	yea
Leap	-	yea	Snow	-	yea

Councilman Leap reported that he was not successful in getting a representative from Valley Cablevision here tonight. He had trouble getting the new telephone number but he will have someone here at the April meeting.

Councilwoman Life stated she has been discussing with Mr. Monger the possibility that when some more paving is done a turnaround be considered at the bottom of Washington Avenue at the railroad.

Mr. Monger stated there is not enough room to put in a legal turnaround but maybe some type could be put in that area.

Councilwoman Life reported that since December she has been in touch with the railroad trying to help EPIC and the Town of Elkton keep the freight station. At the VML meeting in the fall she had talked with some of the mayors who had also worked with the railroad regarding stations. In talking with the Mayor of Appomatox she found that the railroad had also donated the property as well as the station. Councilwoman Life stated she called the Superintendent in Roanoke and has talked with him on three occasions. He has sent the recommendation to the railroad real estate committee and recommended the town be allowed to keep the freight station and property. It is now in the hands of the real estate committee and will have to go to another committee before it will be final. She has received nothing positive but it is still in the works. A fence would have to be constructed if we are allowed to keep the station.

Councilwoman L. C. Life moved, seconded by Councilman H. W. Leap and carried to cut our residential sewer bills to person signing up in the town office by April 15, 1988 using the base amount of April and running from May through August. Should there be any increase in rates this will go on the cost.

Councilman Leet reported that the town has their portion of the construction of the water lines and the sewer to the shopping center across the river complete and they met the requirements. The county does not have their's quite complete.

Councilman Leet reported that we now have all of our equipment for the fluoridation so it is a matter of getting the state to come in and make a test run.

Councilman Holt reported that the Planning Commission met after the Public Hearing to consider the items discussed at the hearing.

Councilman Holt reported on Item 4 which is the request by Mr. Garland Davis to subdivide Tract 1 and Tract 1A as shown in Deed Book 272, Page 198, making another Tract (Tract 1B) to contain approximately 7350 square feet. Because there are some items that need to be taken care of by Mr. Davis, the Planning Commission decided not to act upon this item tonight.

Councilman Holt reported on Item 3 which is the request by Mr. Carl Schumacher to resubdivide Lots 9 and 10, Block 47, Section 3, into one lot. There are some legal ramifications here and as the Planning Commission didn't have the benefit of Mr. Davenport's advice they decided to wait until it is discussed tonight in the council meeting to see if action by council would be satisfactory.

Mr. Davenport explained what the status is at this point. The zoning ordinance contains a number of definitions. One of the terms used is the term "lot". The definition of lot as it reads means historic lot. The lot as it has been used, not subdivided lot as drawn on plats or subdivisions of the town. When you have some land, even though it may contain more than one lot as it shows on the plat, which has been used through the years as a single lot, as a yard or a place for a house, and it has been used as one piece of property for one single home or use, then that is a lot according to the zoning ordinance. If it happens to be two subdivided adjacent lots that have always been, or for a substantial period of time, someones yard or place for their house, then that is one lot not two lots. When looking at the piece of property in question, Mr. Davenport understands this is the case. This has been used as one particular lot. The definition of lot in the zoning ordinance states that it may or may not be the land so recorded on the

records of the County Clerk's Office, which means the subdivision lot, but rather it is land bounded by definite lines and occupied by a building and its accesory buildings, and including the open space. If in fact that parcel of ground is two subdivided lots and has been used through the years as one lot, therefore it is one corner lot not one corner lot and another lot. Mr. Davenport's opinion is that there is no real room for differences of opinion as far as he is concerned and feels there is no legal grounds to deny Mr. Schumacher a building permit to build on both lots.

Council discussed this situation at length with Mr. Davenport. There was a suggestion to wait until next meeting to give Mr. Davenport more time to research this and be sure. Mr. Davenport stated he feels he is as sure as he can be. There was further discussion as to whether council has to resubdivide the two lots as requested. Mr. Davenport stated it was not necessary to resubdivide the lots. Council stated they want to be fair to Mr. Schumacher but they also felt something needs to be done regarding controlling apartments in town and eliminating apartments in A-1 Districts. Several council members stated they were still not convinced the lots in question should be considered as one lot as explained by Mr. Davenport.

Mr. B. W. Gooden stated he did not think any other attorney would have any trouble busting this thing wide open. The zoning book establishes blocks by numbers for lots. Taxes are paid on lots by numbers so you certainly do go by lots. You don't combine them together. The town has never operated this way before, it has always looked at lots.

Mr. Davenport stated it is hard to ignore the plain language in the zoning ordinance definition. The zoning map is based on subdivided lot lines but that in itself is not inconsistant with the definition of "lot". He does not see how we can get around that definition.

Mrs. Barbara Dean pointed out the town plat specifies the definition and size of lots. Mr. Davenport stated the zoning ordinance is the definition that counts in this situation, it overrides the other definition.

Councilman B. B. Holt moved, that the Town Superintendent be instructed to issue a building permit to Mr. Schumacher to build apartments on Lots 9 and 10, Block 47, Section 3 to meet the requirements of the town zoning ordinance and other laws. The motion died due to a lack of a second.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life that the modification to the town zoning ordinance, Section 4(4), which would eliminate apartment houses on corner lots in A-1 Residence Districts be approved on Second Reading.

Councilman Davis stated that due to the repeated requests from the people of Lucas Lane for some type of relief or ordinance that would prevent an expansion of apartments in that area, and the fact that they were repeatedly told that this type of thing would be taken care of when the zoning was complete, he feels we owe these people some type of apology as it is obvious here that council can do something. Councilman Holt pointed out that we could not do anything as that was an A-2 area. Mayor Dean stated that our attorney had advised that we could not pass a blanket ordinance stopping apartments all over town.

After some further discussion regarding the fairness to Mr. Schumacher and the indecision as to the interpretation by our attorney regarding the definition of lots, Councilwoman Life withdrew her second and Councilman Holt his motion.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to delay final consideration on Mr. Schumacher's request for apartments on the property in question until the next council meeting. The vote was recorded as follows:

Davis	- nay	Leet	- yea
Holt	- yea	Life	- yea
Leap	- nay	Snow	- nay

Mayor - nay

Councilman H. W. Leap moved, seconded by Councilwoman L. C. Life, that based upon the way the council has always looked at lots, that the request for the building permit for apartments on Lots 9 and 10 be denied. The vote was recorded as follows:

Davis	- nay	Leet	- yea
Holt	- nay	Life	- yea
Leap	- yea	Snow	- yea

Councilman H. W. Leap moved, seconded by Councilman B. B. Holt and carried to direct Mr. Monger, as the law clearly says, to approve Mr. Schumacher's request to build on the corner lot.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life and carried to approve on Second Reading the amendment to the Zoning Ordinance to repeal Sec. 4(4) as printed in the February 22nd. minutes effective immediately.

Councilman Holt spoke regarding the modification of the zoning ordinance to affect home occupation activities. He pointed out that the first paragraph has been modified since the First Reading. The requirements on advertisement was eliminated and added a subparagraph making it quite clear that those people have to have a business license.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life and carried to approve on Second Reading the following amendment to Section 2 and 4 of the Zoning Ordinance:

AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF ELKTON, VIRGINIA
AMENDING SECTION 2 AND 4 OF THE ZONING ORDINANCE

Be it Ordained by the Town Council of the Town of Elkton, Virginia:

Section 2. Definitions.

A new paragraph (28) shall be added to the existing Section to read as follows:

"(28) HOME OCCUPATION ACTIVITY. Home occupation activity is activity carried on solely by residents of the primary dwelling on a lot, which meets the following criteria:

a. the activity is incidental to the use of the premises as a dwelling;
b. the activity and storage of products or inventories is within a building;
c. the activity does not cause unreasonable noise, dust or fumes;
d. the activity does not result in an unreasonable increase of vehicular traffic on the street; and
e. not more than the equivalent of the area of one floor of the dwelling is used for the activity.
f. business licenses have been obtained for the activity and all business license taxes are paid within the time required in Title 7."

Section 4. A-1. Residence Uses.

A new paragraph (21) shall be added to the existing Section to read as follows:

"(21) HOME OCCUPATION ACTIVITY. The Town Council may grant a special use permit, upon reasonable conditions and terms it deems appropriate, if any, for the operation of such activity, upon notice and public hearing. Notice of the application and the hearing shall be given by the Town Council in a newspaper of local circulation once a week for two weeks, and the second date of publishing shall be no less than six days nor more than twenty-one days prior to the hearing. Written notice of the application and the hearing shall be given by the Town Council to each adjacent property owner and owners of lots located directly across streets or alleys from the property for which the permit is sought. Notice shall specify the time and place at which persons affected may appear and present their views. Applicants for each permit shall pay to the Town a uniform fee which shall be determined from time to time by resolution of the Town Council."

This ordinance shall be in effect from and after the 21st. day of March, 1988.

Mayor Dean stated that Mr. Conley was present tonight requesting water and sewer and some people from the Pentecostal Hill area are asking if the town is willing to work with the county to provide them water and sewer lines. Mayor Dean pointed out that the council has discussed an annexation study and that we should try to work out an agreement with the county regarding the annexation of certain areas. Mayor Dean feels council should do something before the General Assembly becomes involved in annexation again. There was some discussion regarding setting up a committee to work with the county on this. Council was in agreement that we should try to set up some type of working relationship with the county.

Councilman Holt reported that the General Assembly granted the Historical Society $10,000.00 for the Kite House. They had asked for $50,000.00, the House cut it down to $20,000.00 and Richmond lost tract of seventeen million and by the time this got to the Senate we were cut to $10,000.00. This still does not give the Historical Society enough to start work. There is a possibility that they may have to come to council for some help in order to get started.

As there was no further business, the meeting adjourned.

MAYOR: Charles E. Dean
Charles E. Dean, Mayor

RECORDER: Norma R. Leap
Norma R. Leap, Clerk